UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IV

ALABAMA
FLORIDA
GEORGIA
TENNESSEE

September 11, 2024

By email only to csmith@umobile.edu

Dr. Charles W. Smith Jr.
President
Mobile, AL

Re: University of Mobile – OCR Complaint Number 04-24-2158

Dear President Smith:

This letter advises you of the outcome of the U.S. Department of Education, Office for Civil Rights (OCR) investigation that OCR opened after receiving a complaint on March 15, 2024, against the University of Mobile (University). The Complainant alleged discrimination on the bases of race and disability.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, and its implementing regulation at 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability, as well as Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 C.F.R. Part 100, which prohibit s discrimination on the basis of race, color, or national origin in programs and activities that receive Federal financial assistance from the U.S. Department of Education.

Legal Standard

Section 504, at 34 C.F.R. § 104.43 (a) states that no qualified disabled student shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education aid, benefits, or services to which this subpart applies.

Title VI, at 34 C.F.R § 100.3 (a) states that person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies.

OCR investigated whether the University treated the Complainant different based on disability or race, in noncompliance with Section 504 and Title VI, respectively.

Summary of Investigation

During its investigation, OCR reviewed documents provided by both the Complainant and the University. OCR also interviewed the University's Vice President of Academic Affairs. Prior to OCR completing its investigation, the University expressed an interest in resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. Section 302 states that allegations under investigation may be resolved at any time when, prior to the completion of the investigation, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. As discussed more fully below, the University signed a Resolution Agreement (Agreement) to resolve the concerns that OCR identified.

Facts

The Complainant, who identifies as a Black female, enrolled in the University's Nursing Department for the Spring 2024 semester, beginning on January 8, 2024. During the Complainant's enrollment at the University, she stated that she was treated differently based on her race and her disability. Specifically, on January 29, 2024, while enrolled in the "Intro to Clinical Nursing" course, the Complainant explained that she believed she was treated differently than a white classmate after an error regarding the use of sterile gloves. According to the Complainant, the Professor berated her for the error, whereas a white classmate was not reprimanded after a similar mistake.

The Complainant also stated that in February she experienced two separate incidents of different treatment. The Complainant stated that the Professor provided assistance to a white classmate after she was injured but dismissed the Complainant's medical needs after she experienced swelling in her feet due to high blood pressure during a lab experience. Additionally, the Complainant states that she was placed in a wheelchair provided by the University that required an individual to push her, but the University staff did not provide assistance. She believed this was a form of race and disability different treatment.

On February 28, 2024, the Complainant emailed the Dean of the School of Nursing (Dean) to state that she would like to file a grievance against the Professor who provided assistance to the white student. On February 29, 2024, the Dean responded and explained to the Complainant where she should go to file a formal grievance and the Complainant replied that she was going to withdraw from the University. She thanked the Dean for explaining the grievance process and said she would provide more details in her complaint.

On March 7, 2024, the Complainant submitted a written complaint via email to the Dean alleging race and disability discrimination. On March 8, 2024, the Dean replied and said she would contact the Vice President of Academic Affairs (VP) regarding the incidents. Thereafter, the Dean sent an email and scheduled a time to discuss the complaint with the VP.

On March 8, 2024, the VP spoke with the Professor and received a written response regarding the incidents that occurred. The Professor explained in her response that she did not discriminate against the Complainant.

On March 11, 2024, the Complainant withdrew from the University, without receiving any information about the complaint she filed.

On March 12, 2024, the VP and Dean discussed via email that because the Complainant was no longer enrolled at the University, they did not need to further contact her regarding her complaint. Additionally, on March 14, 2024, after the Complainant sent emails to other staff members about the Professor, the VP requested that the University Security no longer allow the Complainant on campus.

A review of the University policies state that a student who has a complaint of discrimination should contact the Vice President for Enrollment. However, during a phone call with OCR on September 9, 2024, the VP stated that the Title IX Coordinator is responsible for handling all complaints of discrimination, and she stated that she asked the Dean if they needed to contact the Title IX coordinator regarding the Complainant's grievance, but they did not. The VP further stated that the University's process for handling complaints of discrimination could be more streamlined and consistent so that staff knew to forward complaints of discrimination to one person/department.

Before OCR could complete interviews with additional faculty and staff, the University expressed an interest in resolving the complaint through a resolution agreement.

Analysis

Based on the investigation to date, OCR notes concerns regarding the University's lack of clear policies and procedures governing how the University handles complaints of discrimination, as well as the University's failure to complete the investigation filed by the Complainant. These concerns warrant entering into a resolution agreement. The attached Agreement will, when fully implemented, resolve the issues identified above. The Agreement requires that the University complete its investigation of the Complainant's allegations and provide her a copy of the findings. The Agreement also requires the University to revise its policies and procedures to ensure that all University staff forward any complaints of discrimination to the University's designated office for investigating complaints of discrimination as well as complete an investigation for complaints of discrimination even when a student withdraws. Finally, the Agreement requires the University to disseminate the revised policies and procedures to staff and students and conduct a training to ensure all University staff are aware of the changes.

Conclusion

This concludes OCR's investigation of the complaint and should not be interpreted to address the school system's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. A complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact the assigned investigating attorney, Lachauna Edwards at (202) 987-1883 or the undersigned at (404) 974-9398.

Sincerely,

Michelle Vaughan
Compliance Team Leader